

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
December 5, 2005

D043433 Lair et al. v. Vinci et al.

We reverse the court's new trial order and remand the matter with directions that it enter judgment on the jury's special verdict. We affirm the trial court's orders denying the parties' motion for JNOV. The parties shall bear their own costs on appeal. O'Rourke, J.; We Concur: McConnell, P.J., Haller, J.

D047354 Jeanette R. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency

No timely petition for writ relief has been filed. The notice of intent is deemed to be abandoned. The case is dismissed.

D047326 Crystal T. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency

No timely petition for writ relief has been filed. The notice of intent is deemed to be abandoned. The case is dismissed.

D047282 Leticia O. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency

The attorney for petitioner Leticia O. has notified the court on behalf of the petitioner that a Petition for Writ of Mandate under Rule 38.1 will not be filed as there are no viable issues for writ review. The case is dismissed.

D046807 People v. Miller

Upon filing an abandonment of appeal, personally signed by the defendant, the appeal is dismissed and the remittitur is ordered to issue immediately.

D046308 People v. Landroche

The judgment is affirmed. Irion, J.;
We Concur: McConnell, P.J., Aaron, J.

D042489 Wigington v. Will

We reverse the judgment on Linda Wigington's conspiracy claim against Gary and Debra Will and the punitive damage award against the Wills. We affirm the judgment on Linda Wigington's cause of action for money had and received, including the \$480,000 compensatory damages awarded in favor of Linda Wigington against Debra and Gary Will. As Charlene Bruce did not appeal, the judgment against her is unaffected by this appeal. The parties to bear their own costs on appeal. Haller, J.;
We Concur: McConnell, P.J., Aaron, J.

D046808 HUB Properties Trust v. Alliance Pharmaceutical Corp.

Upon filing a written abandonment of the appeal filed on 7/11/05, by Alliance Pharmaceutical Corporation, the appeal is dismissed. Upon filing a written abandonment of the cross-appeal filed on August 2, 2005, by HUB Properties Trust, the appeal is dismissed. The remittitur is ordered to issue immediately. Each party to bear its own costs on appeal.

D047071 Kramer et al. v. Paulson

Upon written stipulation filed by the parties, the appeal is dismissed and the remittitur is ordered to issue immediately. Each party to bear own costs on appeal.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
December 5, 2005 (Continued)

D047586 People v. Poon

The petition for transfer filed on November 30, 2005, is denied.

D047239 In re Inocente Andrade Mena

The petition is denied.

D046605 Miglaccio v. Silva

Upon written request filed by appellant, the appeal is dismissed and the remittitur is ordered to issue immediately (Cal. Rules of Court, rule 20(c)(2)).

D047602 Lorenzen v. Superior Court of San Diego County/Jamay

The petition is denied.

D046425 Eklund v. Scripps Health

The appeal filed on May 3, 2005 is dismissed because appellant did not timely deposit costs for preparing the record on appeal. Respondent's application for an order of dismissal is denied as moot.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
December 6, 2005

D046691 In re Carolina B. et al., Juveniles

The order is affirmed. Irion, J.; We Concur: Benke, Acting P.J., Haller, J.

D046846 In re Bonita M. et al., Juveniles

The judgment is affirmed. Huffman, Acting P.J.; We Concur: Haller, J., McDonald, J.

D044603 People v. Castro

The judgment is affirmed. Nares, J.;
We Concur: Benke, Acting P.J., McIntyre, J.

D046613 In re Richard B., a Juvenile

The judgment terminating parental rights is reversed. This matter is remanded to the juvenile court, with directions that it (1) require the Agency to give proper ICWA notice to any appropriate tribe and the BIA, and file with the court the notices, return receipts, and any responses; and (2) hold a new section 366.26 hearing. If, at the new section 366.26 hearing, the court determines that the ICWA notice was proper and no Indian entity seeks to intervene or otherwise indicates that Richard is an Indian child as defined by ICWA, the court shall reinstate all of its previous findings and orders, including the termination of parental rights. If, on the other hand, an Indian entity determines that Richard is an Indian child under ICWA, the court shall conduct the detention, disposition and all subsequent hearings in accordance with ICWA. O'Rourke, J.; We Concur: Benke, Acting P.J., Irion, J.

D046656 People v. Hernandez

The judgment is affirmed. Aaron, J.; We Concur: McConnell, P.J., Huffman, J.

D046073 People v. Stephan

The judgment is reversed. The matter is remanded for consideration of the issues raised in the motion to suppress and response thereto in light of the views expressed in this opinion. McIntyre, J.; We Concur: Nares, J., O'Rourke, J.

D047518 In re Kurbegovich on Habeas Corpus

The petition is denied because it is successive, repetitious, and petitioner has failed to state a prima facie case for relief.

D044619 Godding et al. v. Defense Web Technologies Inc., et al.

D045434 Godding et al. v. Defense Web Technologies Inc., et al.

(Consolidated.) The orders are affirmed. The matter is remanded to the trial court for its determination of an attorney fees award to defendants on appeal. Defendants are also entitled to costs on appeal. McConnell, P.J.; We Concur: Haller, J., Aaron, J.

D045020 People v. Esmane

The judgment is affirmed. McConnell, P.J.; We Concur: Benke, J., Aaron, J.

D047253 In re Green on Habeas Corpus

The petition is denied.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
December 6, 2005 (Continued)

D046362 Canyon Capital Marketing, Inc. v. Corporate Stock Transfer, Inc.

Appellant's opposed motion to vacate the dismissal and reinstate the appeal is granted. The order of dismissal is vacated and the appeal is reinstated. Appellant's opening brief is due within ten (10) days from the date of this order. No further extensions will be granted.

D047605 In re Brittany H., a Juvenile

A notice of appeal in delinquency cases under the Welfare and Institutions Code must be signed either by the appellant minor or his or her attorney. The notice of appeal received in the Superior Court of San Diego County on November 28, 2005, was signed by the minor's mother. The matter has been considered by Presiding Justice McConnell and Associates Justices O'Rourke and Nares. The appeal is dismissed.

D046219 In re James Bottomley on Habeas Corpus

The petition is denied.

D047611 In re Warren on Habeas Corpus

The petition is denied.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
December 7, 2005

D046060 Hoff, Jr. v. Roosendaal

Upon written stipulation filed by the parties to the appeal, the appeal is dismissed and the remittitur is ordered to issue immediately (Cal. Rules of Court, rule 20(c)(2)). Each party to bear his own costs on appeal.

D046734 Rached v. Superior Court of San Diego County/Board of Chiropractic Examiners

The petition is denied. The stay of the suspension of the petitioner's chiropractic license issued on July 8, 2005, will be vacated when the opinion is final as to this court. The parties are to bear their own costs in the writ proceeding. McDonald, Acting P.J.; We Concur: McIntyre, J., Irion, J.

D045250 Green v. Boehrig

The judgment is reversed in part insofar as it awards Green punitive damages. In all other respects, the judgment is affirmed. Each party is to bear his or her own costs on appeal. McIntyre, J.; We Concur: Nares, Acting, P.J., O'Rourke, J.

D046755 People v. Maclean

The judgment is affirmed. Irion, J.;
We Concur: O'Rourke, Acting P.J., Aaron, J.

D046266 People v. Noble

The judgment is modified by staying the sentence for battery with serious bodily injury (count 1). As so modified, the judgment is affirmed. The trial court is directed to correct its records accordingly. Nares, Acting P.J.; We Concur: O'Rourke, J., Aaron, J.

**D047485 Chateau Village Community Association v. Superior Court of San Diego
County/Pardee Homes**

The petition is denied.

D045557 Bivens v. Gallery Corporation

The opinion filed November 22, 2005 is ordered certified for publication.

**D046970 Samantha A. v Superior Court of San Diego County/San Diego County Health and
Human Services**

The petition is denied. The stay issued December 6, 2005, is vacated. Haller, J.; We Concur: Huffman, Acting P.J., McDonald, J.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
December 8, 2005

D046200 People v. Pough

The judgment is affirmed. McConnell, P.J.; We Concur: McDonald, J., Irion, J.

D046045 People v. Buchanan

The judgment is affirmed. McDonald, J.; We Concur: Huffman, Acting P.J., Aaron, J.

D045900 People v. Nguyen

The judgment is affirmed. Benke, Acting, P.J.; We Concur: Nares, J., O'Rourke, J.

D046492 People v. Merrill

The judgment is affirmed. Irion, J.;

We Concur: Nares, Acting P.J., Aaron, J.

D046433 People v. Strong

D047164 In re Strong on Habeas Corpus

The petition for writ of habeas corpus, In re Strong, D047164, is consolidated with the appeal People v. Strong, D046433, for disposition.

D046433 People v. Strong

D047164 In re Strong on Habeas Corpus

(Consolidated) The judgment is affirmed; the petition a writ of habeas corpus is denied. McIntyre, J.; We Concur: Haller, Acting, P.J., Aaron, J.

D047223 People v. Jones

Upon filing an abandonment of appeal, personally signed by the defendant, the appeal is dismissed and the remittitur is ordered to issue immediately (Cal. Rules of Court, rule 30.3).

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
December 9, 2005

D044663 Ramona Unified School District v. Tsiknas et al.

The judgment is affirmed. Defendants are entitled to costs on appeal. McDonald, J.;
We Concur: Nares, Acting P.J., O'Rourke, J.

D044619 Godding v. Defense Web Technologies Inc, et al.

D045434 Godding v. Defense Web Technologies Inc, et al.

It is ordered that the opinion filed on December 6, 2005, be modified to add the concurring opinion of
Justice Haller following page 18 (see order). There is no change in the judgment.

D045375 McMeans v. City of Escondido

The judgment is affirmed. Respondent is awarded costs on appeal. McConnell, P.J.;
We Concur: Haller, J., Irion, J.

D044839 People v. Davidson

The judgment is affirmed. McConnell, P.J.; We Concur: Haller, J. Irion, J.

D046928 In re Steven H., a Juvenile

The orders are affirmed. McIntyre, J.;
We Concur: Huffman, Acting P.J., Haller, J.

D045269 Garcia Produce et al. v. De La Fuente Business Park Owners Association

The judgment is affirmed. The Association to pay Garcia's costs on appeal. Haller, J.
We Concur: Benke, Acting P.J., O'Rourke, J.